



Environmental Planning Commission

***Agenda Number: 6
Project Number: 1003532
Case Numbers: 09EPC-40028/40034
November 19, 2009***

Staff Report

<i>Agent</i>	DAC Enterprises
<i>Applicant</i>	Afra Construction
<i>Request(s)</i>	Site Development Plan for Building Permit Amend Sector Development Plan Map
<i>Legal Description</i>	Lot(s) 17-20, block(s) 9, T2, unit 3
<i>Location</i>	Holly Ave NE, between Wyoming Blvd NE and Louisiana Blvd NE
<i>Size</i>	Approximately 3.2 acres
<i>Existing Zoning</i>	SU-2 Mixed Use
<i>Proposed Zoning</i>	SU-2/SU-1 for Drive-in Restaurant and Mixed Use

Staff Recommendation

DENIAL of 09EPC 40034 based on the findings on page 20.

DENIAL of 09EPC 40028 based on the findings on page 25.

Staff Planner

Randall Falkner, Staff Planner

Summary of Analysis

This is a request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use, and a site development plan for building permit for Lots 17-20, block 9, T2, unit 3, on a 3.2 acre parcel of land located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE. The applicant intends to build a proposed shopping center and a drive-in restaurant with a drive-up lane and service window.

The applicant has not adequately justified the request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use, or the site development plan for building permit, based on applicable policies in the Comprehensive Plan and the La Cueva Sector Development Plan. The La Cueva Neighborhood Association opposes the project. Staff is recommending denial of the request.

Location Map (3" x 3")

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding zoning, plan designations, and land uses:

	<i>Zoning</i>	<i>Comprehensive Plan Area; Applicable Rank II & III Plans</i>	<i>Land Use</i>
<i>Site</i>	SU-2 Mixed Use	Developing Urban La Cueva Sector Development Plan	Vacant
<i>North</i>	SU-2 Mixed Use	Developing Urban La Cueva Sector Development Plan	Commercial, Vacant
<i>South</i>	SU-2 Mixed Use, C-1	Developing Urban La Cueva Sector Development Plan	Commercial, Vacant
<i>East</i>	C-2 (SC)	Developing Urban La Cueva Sector Development Plan	Vacant
<i>West</i>	SU-2 R-2	Developing Urban La Cueva Sector Development Plan	Single Family Residential

Background

This is a request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use, and a site development plan for building permit for Lots 17-20, block 9, T2, unit 3, on a 3.2 acre parcel of land located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE. The applicant intends to build a proposed shopping center and a drive-in restaurant with a drive-up lane and service window.

History

There has been no previous development at this site. This will be the first development request at this site since the adoption of the La Cueva Sector Development Plan (LCSDP) in 2000.

Context

The subject site is located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE. To the north is the Bank of Albuquerque. To the south are various commercial businesses, to the east are a variety of commercial businesses, and to the southeast is a Smith's grocery store, an Office Max and various other businesses. To the west is a single family residence and further west is mostly vacant land.

Long Range Roadway System

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways.

The Long Range Roadway System designates Wyoming Boulevard NE north of Paseo del Norte as a Collector street, with a right-of-way of 68'.

Holly Avenue NE is a local street.

There is an existing bicycle lane and multi-use trail on Wyoming Boulevard NE north of Paseo del Norte.

Bus routes #31 (Wyoming) and #98 (Wyoming Commuter) pass by the site on Wyoming Boulevard NE. The nearest bus stop is along Wyoming Boulevard adjacent to Lot 17.

Wyoming Boulevard NE is an Enhanced Transit Corridor.

Public Facilities/Community Services

Public facilities and/or community services in the area include the following: North Domingo Baca Park, Noreste Park, Rancho de Palomas Park, Rotary Park, Loma del Norte Park, Jade Park, Desert Ridge Middle School Park, Gate of Heaven Catholic Cemetery, Desert Ridge Middle School, La Cueva High School, Dennis Chavez Elementary School, Edmund G. Ross Elementary School, and Hope Christian Academy.

ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES

Albuquerque Comprehensive Zoning Code

SU-2 Mixed Use is the existing zoning. SU-2 Mixed Use is intended to provide the community with a mix of mutually-supporting retail, service, office, and residential uses. The provisions of the C-1 zone in the City Zoning Code apply in areas that are zoned SU-2 Mixed Use in the La Cueva Sector Development Plan. The La Cueva Sector Development Plan states the following concerning drive-up facility as a permissive use: "Drive-up facility, as permissive in the C-1 zone, provided that a minimum of 1.75 acres be provided for each drive-up facility. Where corner lots are involved, a minimum of 1.3 acres is required for each drive-up facility due to additional right-of-way dedication requirements."

However, while the proposed restaurant does have a drive-up lane and service window, it is also a drive-in restaurant, which is not allowed in C-1 zoning. Concerning drive-in restaurants in the C-1 zone, the Zoning Code states: "Food and drink for consumption on premises or off, provided: 1. There shall be no drive-in restaurant." The only permissive drive-in facility allowed in the C-1 zone is for banks (permitted on the condition the vehicle movement plan is approved by the Traffic Engineer). A drive-up service window is a conditional use in the C-1 zone (provided that the vehicle movement plan is approved by the Traffic Engineer, and provided that the service window and any associated order board are located at least 75 feet from any residential zone).

As a result of no drive-in restaurants being allowed in the C-1 zone, the applicant is requesting to change the zoning to SU-2/SU-1 for Drive-in Restaurant and Mixed Use. The SU-2 zone allows a mixture of uses controlled by a Sector Development Plan which specifies new development

and redevelopment which is appropriate to a given neighborhood, when other zones are inadequate to address special needs.

The City Zoning Code defines a drive-in restaurant as follows: A restaurant or refreshment stand which has one or more of the following: (1) No inside tables or counters for customer eating, and food is served with any dishes and utensils which are customary for eating the food; or (2) Carhop service to parked vehicles. The proposed restaurant has no inside table or counters for customer eating, and also provides Carhop hop service to parked vehicles, making it a drive-in restaurant.

Albuquerque / Bernalillo County Comprehensive Plan

Policy Citations are in Regular Text; *Staff Analysis is in Bold Italics*

The subject site is located in the area designated Developing Urban by the Comprehensive Plan with a Goal to “create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment.” Applicable policies include:

Policy II.B.5a: The Established and Developing Urban areas as shown by the plan map shall allow a full range of urban land uses, resulting in an overall gross density up to 5 dwelling units per acre.

The proposed zoning/site development plan would allow a full range of urban land uses. It should be noted that the request, a drive-in restaurant, is not allowed in C-1 zones. The zoning language in C-1 is clear, “There shall be no drive-in restaurant” (Section 14-16-2-16 (A)(8)(i)(1). The request furthers Policy II.B.5a.

Policy II.B.5d: The location, intensity and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

The request is not in accord with the surrounding neighborhood values, natural environmental conditions, carrying capacities, and scenic resources. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA’s relate to traffic and safety. The request does not respect existing neighborhood values, as a result of not complying with many design regulations of the La Cueva Sector Development Plan (which are mandatory) or the Comprehensive Plan. In addition, “The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Use on the zoning map” (La Cueva Sector Development Plan, page 29). C-1 zoning does not allow a drive-in restaurant. The

LCSDP was written and adopted to explicitly not allow drive-in restaurants. The request does not further Policy II.B.5d.

Policy II.B.5e: New growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.

Full urban services are available to the surrounding properties and the subject site would provide infill development; however, ensuring the integrity of existing neighborhoods is problematic because the request does not meet many of the design regulations in the La Cueva Sector Development Plan, does not further many policies in the Comprehensive Plan, and a drive-in restaurant is currently prohibited in the C-1 zone. The La Cueva Village Neighborhood Association is opposed to the request, and Heritage Hills NA and Nor Este NA have concerns regarding traffic. The proposed restaurant could result in additional traffic, which could impact nearby residential neighborhoods. The request partially furthers Policy II.B.5e.

Policy II.B.5i: Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.

A drive-in restaurant with a drive-up lane and service window is exclusively designed to attract customers in vehicles. Vehicles waiting in the drive-up lane may add to the pollution of the area, and traffic would increase at the following intersections (Wyoming/Paseo del Norte, Wyoming/Holly, and Wyoming/Carmel). Traffic is a concern for La Cueva Village NA, Heritage Hills NA, and Nor Este NA. The request does not meet many of the design regulations in the La Cueva Sector Development Plan, does not further many policies in the Comprehensive Plan, and a drive-in restaurant is currently prohibited in C-1 zones. This use, not allowed by the LCSDP, would not complement residential areas. The request does not further Policy II.B.5i.

Policy II.B.5j: Where new commercial development occurs, it should generally be located in existing commercially zoned areas as follows:

- In small neighborhood-oriented centers provided with pedestrian and bicycle access within reasonable distance of residential areas for walking or bicycling.
- In larger area-wide shopping centers located at intersections of arterial streets and provided with access via mass transit; more than one shopping center should be allowed at an intersection only when transportation problems do not result.

Drive-in restaurants with a drive-up lane and drive-up service window are designed to attract many vehicles. There are 22 parking spaces that have their own individual ordering boards, as well as a drive-up lane and service window. There are also sidewalks and bicycle racks at

the subject site. As a result, there is the potential for vehicle/bicycle/pedestrian conflicts. Community Activity Centers should be walkable and very accommodating to the pedestrian; however, a request for a drive-in restaurant with a drive-up lane and service window would not be very accommodating to the pedestrian. The request does not further Policy II.B.5j.

Policy II.B.5k: Land adjacent to arterial streets shall be planned to minimize harmful effects of traffic; livability and safety of established residential neighborhoods shall be protected in transportation planning and operation.

The request for a drive-in restaurant with a drive-up lane and service window would provide additional traffic. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA's relate to traffic and safety. The request does not further Policy II.B.5k.

Policy II.B.5m: Urban and site design which maintains and enhances unique vistas and improves the quality of the environment shall be encouraged.

The applicant states that "site design regulations of the La Cueva Sector Development Plan (LCSDP) are already written to further this policy." However, there are many design regulations in the LCSDP which are not furthered. A view analysis has been provided. The request partially furthers Policy II.B.5m.

Policy II.B.5p: Cost effective development techniques shall be developed and utilized.

Private investment in a vacant parcel of land would provide a cost effective development technique. The request furthers Policy II.B.5p.

Activity Centers

The Activity Center Goal is "to expand and strengthen concentrations of moderate and high-density mixed land use and social/economic activities which reduce urban sprawl, auto travel needs, and service costs and which enhance the identity of Albuquerque and its communities."

Policy II.B.7a: Existing and proposed Activity Centers are designated by a Comprehensive Plan map where appropriate to help shape the built environment in a sustainable development pattern, create mixed use concentrations of interrelated activities that promote transit and pedestrian access both to and within the Activity Center, and maximize cost-effectiveness of City services.

The subject site is located within the La Cueva Community Activity Center. The Comprehensive Plan describes a Community Activity Center as being “very accommodating to the pedestrian,” “very walkable,” and that a “site circulation plan is important to avoid conflict between pedestrian and auto.” The request for a drive-in restaurant with a drive-up lane and service window does not promote pedestrian access both to and within the Activity Center. The applicant states that restaurants are a typical use in a Community Activity Center and that there is no indication that such restaurants should be limited by type and that the inclusion of a drive-in restaurant contributes to the overall variety of uses offered. However, the Zoning Code specifically states that “There shall be no drive-in restaurant” in C-1 zoning. Therefore, the requested use is not allowed at the subject site. The request does not further Policy II.B.7a.

Policy II.B.7f: The most intense uses in Activity Centers shall be located away from nearby low-density residential development and shall be buffered from those residential uses by a transition area of less intensive development.

The subject site is mostly surrounded by a variety of land uses, including commercial, vacant, and single family residential. Single family residential (zoned SU-2/R-2) is located to the west of the site. Phase II of the development, which includes Buildings C and D (on parcels 19 and 20) would be adjacent to the single family residential home on parcel 21. Building C (9,000 s.f.) and Building D (16,830 s.f.) would be located directly east of the existing single family home. Building D is a commercial use, but would act as a buffer for the more intense use (the drive-in restaurant) to the east. The request partially furthers Policy II.B.7f.

Air Quality

The Goal is to improve air quality to safeguard public health and enhance the quality of life.

Policy II.C.1i: Air quality considerations shall be integrated into zoning and land use decisions to prevent new air quality/land use conflicts.

The applicant states that the current zone category allows drive through uses such as banks and fast food facilities and that the proposed use will not be more likely to increase pollution. The only permissive drive-in facility allowed in the C-1 zone is for banks (permitted on the condition the vehicle movement plan is approved by the Traffic Engineer). A drive-up service window is a conditional use in the C-1 zone (provided that the vehicle movement plan is approved by the Traffic Engineer, and provided that the service window and any associated order board are located at least 75 feet from any residential zone). Drive-in restaurants; however, are specifically prohibited in C-1 zoning, per Section 14-16-2-16 (A)(8)(i)(1). The request is also for a drive-up lane with a service window, which would consist of vehicles continually running while waiting for their food. The request would not improve the air quality of those neighborhoods adjacent to the subject site. The request does not further Policy II.C.1i.

Noise

The Goal is to protect the public health and welfare and enhance the quality of life by reducing noise and by preventing new land use/noise conflicts.

Policy II.C.4a: Noise considerations shall be integrated into the planning process so that future noise/land use conflicts are prevented.

The applicant states that this request does not conflict with any of the policies in the LCSDP, and that a restaurant is considered a typical use in a Community Activity Center. However, the request does conflict with many design regulations of the LCSDP, which are mandatory. The restaurant may be considered a typical use in a Community Activity Center; however, a drive-in restaurant is specifically prohibited in C-1 zoning. The request would produce many vehicles which could cause new land use/noise conflicts. The request partially furthers Policy II.C.4a.

Economic Development

The Goal is to “achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

Policy II.D.6a: New employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to areas of most need.

The request would provide jobs with mostly low to medium salary levels and with limited occupational skills. The request partially furthers Policy II.D.6a.

Policy II.D.6b: Development of local business enterprises as well as the recruitment of outside firms shall be emphasized.

The request would bring in a national fast food drive-in restaurant with a variety of other businesses. It is unknown at this time how many of these businesses would have local businesses and how many would come from outside of New Mexico. The request partially furthers Policy II.D.6b.

Policy II.D.6f: The City and the County should remove obstacles to sound growth management and economic development throughout the community.

It is unknown if the City and County have removed obstacles to sound growth management and economic development. It is incumbent upon the applicant to make a sound justification for this policy, which has not been done. Therefore this policy does not apply.

La Cueva Sector Development Plan (Rank III)

The La Cueva Sector Development Plan (LCSDP) was approved in 2000 and revised in 2003. The LCSDP encompasses 656 acres in the North Albuquerque Acres portion of the North Albuquerque Community. The plan area's general boundaries are Louisiana Boulevard to the west, Florence Avenue to the north, Ventura to the east, and Paseo del Norte to the south. The LCSDP does not have goals, objectives or policies, but it does have guiding principles and Design Regulations for all SU-2 zoned properties.

The Community Identity Section 1.4 of the Plan Purpose of the LCSDP is not a policy or design regulation. The applicant quotes the Community Identity section of the Plan Purpose, which states "Residents of this developing area feel strongly that new development should contribute to a sense of community" and that "the proposed standards encourage a mixed use activity center near Paseo del Norte and Wyoming and a "main street" approach to development along Holley and Carmel, which will become the retail and service corridor for the surrounding neighborhoods." However, the residents of this area that helped to develop the LCSDP also feel strongly that the design regulations of the LCSDP for all SU-2 zoned properties should be followed; in fact, so strongly, that the design "regulations are mandatory" (page 31, LCSDP). There are numerous design standards that are not followed in the LCSDP. The Community Identity section of the Plan Purpose even mentions the "proposed standards" that should be followed. All of the design standards have to be followed in order "to reinforce the identity of this area through the functional, environmental, and visual qualities of development" (page 31, LCSDP).

Guiding principles of the LCSDP which would apply include the following:

Guiding Principles, 1.3, Land uses that are compatible with existing development:

The applicant states that there is wide variety of land uses surrounding the development and that a drive-in will fit seamlessly into this mix. There are a wide variety of land uses surrounding the development; however, the LCSDP states "The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Uses on the zoning map." This means that "There shall be no drive-in restaurant" in C-1 zoning. A land use is not compatible with existing development if it is strictly prohibited. The design regulations for all SU-2 zoned properties also have to be followed. There are many mandatory design regulations in the LCSDP that are not followed in this request. The request does not further the guiding principle of the LCSDP that land uses that are compatible with existing development.

Guiding Principles, 1.3, Higher densities near Paseo del Norte to provide a mix of residential densities and development types in the area. The North Domingo Baca provides a buffer between proposed higher density development and residential areas to the north:

The request does provide a higher density development on Wyoming Boulevard between Holly Avenue and Carmel Avenue. The North Domingo Baca does provide a buffer between proposed higher density development and residential areas to the north. However, this could be said for almost any commercial development. The request furthers the guiding principle of the LCSDP that higher densities near Paseo del Norte to provide a mix of residential densities and development types in the area.

Guiding Principles, 5.1, SU-2 zoning is established along Alameda and Paseo del Norte where more intense land uses are desired and where existing platting and fragmented ownership poses a problem.

The subject site consists of SU-2/Mixed Use zoning. The requested zoning, SU-2/SU-1 for Drive-in Restaurant and Mixed Use, would also have to follow the design regulations for SU-2 zoned properties. The request would place the subject site, which consists of more intense land uses on Holly Avenue between Wyoming Boulevard and Louisiana Boulevard. The request partially furthers the guiding principle that more intense uses be established along Alameda and Paseo del Norte where more intense land uses are desired and where existing platting and fragmented ownership poses a problem.

Guiding Principles, 5.1, The plan area is intended to be urban, with a mix of residential densities and a variety of retail and service businesses to meet the needs of the area's growing population.

The request would add a variety of retail and service businesses to meet the needs of the area's growing population; however, a drive-in restaurant is not allowed in C-1 zoning and numerous mandatory design regulations are not followed. The request partially furthers the guiding principle that the plan area is intended to be urban, with a mix of residential densities and a variety of retail and service businesses to meet the needs of the area's growing population.

Guiding Principles, 5.1, Site plan review of higher density uses is recommended to assure positive relationships between land uses.

Site plan review would be required by the Environmental Planning Commission (EPC) to approve a SU-2/SU-1 for Drive-in Restaurant and Mixed Use zone. However, to ensure positive relationships between land uses, the Zoning Code and the Design Regulations for all SU-2 zone properties in the LCSDP must be followed. The request partially furthers the guiding principle that site plan review of higher density uses is recommended to assure positive relationships between land uses.

Design Regulations for All SU-2 Zoned Properties that have conflicts with the request include the following:

Pedestrian Circulation

Intent: Provide pedestrian connections through mixed-use areas and activity centers and separation between parking and pedestrian circulation.

3R-2: Structures and on-site circulation systems shall be designed to minimize pedestrian/vehicle conflict.

The site does have sidewalks with access to the entire site; however, there are obvious pedestrian/vehicle conflicts associated with a drive-in restaurant with a drive-up lane and service window. The request partially complies with this design regulation.

3R-4: A 15-foot sidewalk shall be provided along the entire entry façade of all buildings. Shading shall be provided along the façade, using canopies, portals, or shade trees spaced at 25 feet.

There is no 15-foot sidewalk provided along the entry façade of the proposed drive-in restaurant. There is partial shade provided by a cloth canopy cover. The proposed drive-in does not have any customer entrances, only employee entrances. A drive-in restaurant was probably never intended to be located in the LCSDP. As a result of not having a 15-foot sidewalk on any of the facades, the request does not comply with this design regulation.

3R-6: All drive-up service facilities shall be designed to minimize conflict between pedestrians and autos, and be located away from main retail areas and plazas. Drive-up facilities shall be covered with canopies to mitigate noise and odor.

The drive-in restaurant is partially covered with an arched drive-thru canopy to mitigate the impact of noise and odors. The drive-in restaurant has been placed in a location to minimize pedestrian and vehicle conflict as much as possible. However, because of the nature of the proposed drive-in restaurant (which is to attract customers in vehicles), there will inevitably be pedestrian/auto conflicts. The request only partially complies with this regulation.

Non-Residential Building Orientation

Intent: Provide pleasing views to surrounding uses by providing higher quality facades at the rear and sides of new buildings.

4R-1: Buildings shall orient customer entrances and/or windows to all public spaces, including common areas, trails and streets.

The drive-in restaurant has employee entrances, but does not have any customer entrances. A drive-in restaurant was never intended to be located in the LCSDP. Although there are not any customer entrances, there are some windows that face the outdoor patio at the drive-in restaurant. The request only partially complies with this regulation.

4R-2: When the side of a building faces any street, the building must have one of the following: design display windows and landscaping, at least one customer entrance and landscaping, or design/details similar to a front façade and landscaping.

Buildings B, C, and D generally comply; however, there needs to be more landscaping throughout the site. The site barely meets the 15 percent requirement in the Zoning Code for landscaping (while Phase 1 barely meets the 15% requirement, Phase 2 does not meet the 15% requirement, and is only 14.8%). There is no customer entrance to the drive-in restaurant on the east side of the building which faces Wyoming Blvd. The landscaping on the east side of the drive-in restaurant that is facing Wyoming (a major street) is small and needs to be larger to provide shade and buffering to create an attractive façade. The south side of the drive-in restaurant has landscaping, but no design display windows or customer entrance. The request only partially complies with this regulation.

4R-3: When the rear of a building faces any street, the building must have one of the following: design display windows and landscaping or design/details similar to a front façade and landscaping.

Since there are no customer entrances for the drive-in restaurant, it is unclear where the front or rear of the building is for the drive-in restaurant. There is landscaping that faces the street of the drive-in restaurant, and windows on the east side of the building; however, there are no design display windows on the south or north side of the building. The south and north sides of the building have P.O.P. picture boards, which are not windows, but signs for various food products which are sold by the restaurant. If the rear of the drive-in restaurant is on the south side (which faces Holly Avenue) then it does not comply with this regulation.

4G-1: Buildings should be located on sites in close proximity to plazas and streets. Large areas of parking should be located to the side of plazas and main building entrances.

The parking for Buildings B, C, and D are in front of and to the side of the main building entrances. The drive-in restaurant does not have a main building entrance; therefore it does not comply with this guideline.

Architectural Character, Non-Residential Buildings

Intent: Reduce the apparent scale and uniformity of facades to make large buildings seem more inviting.

5R-4: Facades greater than 100 feet in length must incorporate recessions or projections along at least 20% of the length of the façade. Recessions must be a minimum depth of three feet and a minimum width of 10 feet.

The length of the drive-in restaurant building is 117' on the north side and 122' on the south side. The drive-in restaurant does not meet this requirement.

5R-7: Each commercial or office building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing wall and/or integral planters.

The drive-in restaurant does not meet this design regulation because it does not have a clearly defined, highly visible customer entrance.

5R-8: No generic prototypical architecture is allowed. Design shall be contextual to its surroundings.

The drive-in restaurant is generic prototypical architecture and does not meet this requirement.

Off-street Parking

Intent: Provide safe vehicular parking with attention to functional and aesthetic concerns. All parking should be justified. Oversized parking lot or facilities should be discouraged.

12R-2: Parking spaces shall be distributed on the site to minimize visual impact. Parking at the rear of the site is encouraged. When parking is located at the front or sides of the site, parking areas shall be placed on at least two sides of a building. Parking areas must be broken up into modules separated by landscaping and other features.

The parking for Buildings B, C, and D are in front of and to the side of the buildings. The parking for the drive-in restaurant is on one side of the building. The request for the drive-in restaurant does not meet this design regulation.

12G-1: Parking areas should be designed to minimize local temperature gain and reduce air pollution. Potential methods of accomplishing this include light colored materials in parking lot surface areas and trees or other shading devices to shade surface area of the lot.

More trees would help to minimize local temperature gain and reduce air pollution. Light colored materials have not been included in the parking lot surface area. The request partially complies with this design guideline.

Signage

13R-3: No wall mounted signs are allowed on facades that face abutting residential zones.

The west elevation of Building C has some wall mounted signs that face the SU-2/R-2 zone. However, the signage is partially shielded by Building D, the parking lot, and the two patios to the west. The request partially complies with this design regulation.

13R-4: Where freestanding signs are allowed, all freestanding signs shall be monument signs. Height of monument signs is limited to eight (8) feet with a maximum face area of 50 square feet.

No free-standing signs are shown on the site plan; however, it is important to note that if the applicant did want a free-standing sign, it would require a variance. The C-1 zone does not allow free-standing signs on premises under 5 acres in the Developing Urban area. The site is 3.2 acres in size.

13R-9: Logo design signs shall not exceed two feet in height or width.

The Sonic sign on the north and south sides of the building does not comply with this regulation. The sign is 3' tall and 6' wide, and shall not exceed 2' in height or width. The P.O.P. picture boards on the north and south sides of the drive-in restaurant also do not meet this requirement. The individual tenant signs for Buildings B, C, and D also do not meet this requirement, based on the height and width of the signs shown on the building elevations sheets.

Resolution 270-1980 (Policies for Zone Map Change Applications)

This Resolution outlines policies and requirements for deciding zone map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: there was an error when the existing zone map pattern was created; or changed neighborhood or community conditions justify the change; or a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

- A. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

The applicant states that the request is for a minor modification to the existing zone category. However, the provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Use on the zoning map. The City Zoning Code explicitly states that "There shall be no drive-in restaurant" in C-1 zoning. The proposed drive-in restaurant with a drive-up lane and service window would increase congestion at the subject site and would also increase the number of pedestrian/vehicle conflicts. The safety of pedestrians and bicyclists is a concern with a use that would mostly attract vehicles. In addition, the request does not comply with many of the mandatory design guidelines in the LCS DP.

- B. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not the City to show why the change should not be made.

The applicant has not shown sufficient justification for the zone change request. A drive-in restaurant is not allowed in C-1 zoning, and the request does not comply with numerous mandatory design guidelines in the LCS DP. Adding a drive-in restaurant, which is

specifically prohibited, could de-stabilize the current zoning. The current zoning may have been adopted in 2000 when there were not as many homes as there are now, but the design regulations of the LCSDP still apply.

- C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

The proposed zone change is in significant conflict with multiple policies in the Comprehensive Plan, and with the mandatory design regulations of the LCSDP.

- D. The applicant must demonstrate that the existing zoning is inappropriate because:

- (1) there was an error when the existing zoning map pattern was created, or
- (2) changed neighborhood or community conditions justify the change, or
- (3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (1) or (2) above do not apply.

(3) The applicant has not shown that a different use category is more advantageous to the community as a result of being in conflict with multiple policies of the Comprehensive Plan and the design regulations of the LCSDP.

- E. A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood or the community.

A zone change could be harmful to adjacent property as a drive-in restaurant is not allowed in C-1 zoning. The mandatory design regulations of the LCSDP have been set up to protect the residents in this area, and many regulations are not being followed.

- F. A proposed zone change which, to be utilized through land development, requires major and un-programmed capital expenditures by the City may be:

- (1) denied due to lack of capital funds, or
- (2) granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule.

The request requires no capital expenditures on the part of the City in order to be developed.

- G. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

The zone change request is specifically to allow for a drive-in restaurant use, if the cost of land or other economic considerations are not the determining factor for the requested zone change, then they are a major factor for this request.

- H. Location on a major street is not in itself sufficient justification of apartment, office or commercial zoning.

Street location has been noted in this request, but the application does not ask that it be considered as sufficient justification for this request.

- I. A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a “spot zone.” Such a change of zone may be approved only when:
- (1) The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, or
 - (2) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises make the site unsuitable for the uses allowed in any adjacent zone.

The request would create a spot zone (SU-2/SU-1 for Drive-in Restaurant and Mixed Use); because it is different from any of the surrounding zoning. The request does not clearly facilitate realization of the Comprehensive Plan and the LCSDP and should not be approved.

- J. A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called “strip zoning.” Strip commercial zoning will be approved only where;
- (1) the change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan,
 - (2) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

The request does not constitute a strip zone.

ANALYSIS OF SITE DEVELOPMENT PLAN FOR BUILDING PERMIT

Site Plan Layout / Configuration

The subject site is approximately 3.2 acres in size. The proposed development is for a drive-in restaurant with at drive-up lane and service window, as well as three buildings for office/retail. The parking area for the drive-in restaurant is located on the north side of the building, while the parking area for Buildings B, C, and D are located in front of, to the side, and behind the proposed buildings. The dumpsters for Buildings B, C, and D are located in the 24' drive aisle that connects Holly Avenue with Carmel Avenue (Transportation Development Services has recommended deleting these dumpsters). The dumpster for the drive-in restaurant is located on

the southwest side of the drive-in restaurant property. The height and setbacks comply with zoning regulations.

Walls/Fences

A 6' high wall has been placed along the far western and northern sections of the site to minimize the noise and sight impacts of non-residential activities.

Vehicular Access, Circulation and Parking

Vehicular access to the site is provided via three 24' driveways along Holly Avenue, and one 24' driveway along the northern portion of the site that connects Holly Avenue with Carmel Avenue. The site requires 137 parking spaces and 143 parking spaces are provided. This falls within the 10 percent requirement in the LCSDP, so no variance would be necessary. Disabled, motorcycle, and bicycle parking is provided and is in compliance with the Zoning Code requirements. One disabled parking sign is required for the disabled space in the drive-in parking lot.

Pedestrian and Bicycle Access and Circulation, Transit Access

Buildings B, C, and D have 15' sidewalks (to comply with the LCSDP design regulation) in front of their respective buildings, and 6' sidewalks connecting the buildings to each other. The drive-in restaurant has a 4' sidewalk on the north and south sides of the building, as well as a 5' sidewalk on the west side of the building. The sidewalk on the northern side of the drive-in restaurant connects to the outdoor patio on the east side of the building. There is a 5' sidewalk on the far northern and western sides of the site. The additional traffic that would result from a drive-in restaurant with a drive-up lane and service window would result in pedestrian/vehicle conflicts that could endanger pedestrians and bicyclists.

There is an existing bicycle lane and multi-use trail on Wyoming Boulevard NE north of Paseo del Norte. Bus routes #31 (Wyoming) and #98 (Wyoming Commuter) pass by the site on Wyoming Boulevard NE. The nearest bus stop is along Wyoming Boulevard adjacent to Lot 17.

Lighting and Security

There is a note on the site plan details that all lighting will comply with the LCSDP. APD has recommended the following concerning lighting: Site plan proposes placing parking lot lights in the same parking "islands" with trees – suggest lights and trees do not conflict with each other. APD has also recommended the following concerning lighting for the proposed drive-in property only: The vehicular entrance from Holly requires additional illumination. Recommend adding direction light, which would focus on the entrance and surrounding walkways; the proposed "large" trees on either side of the vehicular entrance from Holly should be removed to allow better visibility from the property. Opening the area would benefit the vehicular/pedestrian mix point and allow better surveillance of the area in the event of criminal activity; the light/landscaping island located west of the Sonic building should be amended. Recommend reducing the landscaping to ground cover, which would increase the effectiveness of the pole light and provide better visibility from the building and drive-up area; the entire perimeter of the property require additional lighting. Suggest installing illumination to the Holly side, parking for car-hop, northeast corner and northwest area. Particular attention should be focused on the

northwest portion of the Sonic property, which is the mix point for the other proposed developments; video surveillance cameras should be positioned to cover all vehicular access points (3), building entrances (interior and exterior), maintenance access points, parking and walkway areas.

Landscaping

Phase I of the landscaping meets the 15% requirement (8,931 s.f.); however, Phase II is just under the 15% requirement, at 14.8% (7,804 s.f.). However, landscaping in the form of trees has been added along the western and northern property lines, and does not seem to have been added to the landscaping total (7,804 s.f.). Applicant needs to re-check the total landscape provided.

The Street Tree Ordinance states “A mixture of at least four species of street trees should be planted in all areas to protect against the loss of all the trees due to disease, insects, or environmental conditions.” The applicant has 20 street trees along Holly Avenue, which are all the same species (Autumn Purple Ash). A variety of trees shall be provided along Holly Avenue. A mixture of trees should also be provided along the far western and northern property lines. The landscaping plan shows 8 street trees shown on Holly Avenue from the eastern most driveway to Wyoming (phase I) and 12 street trees for phase II. “For most typical street trees the spacing should be about 30 feet. Smaller species of trees will require closer spacing and larger trees will require greater spacing” (Street Tree Ordinance 6-6-2-5). The landscaping plan shows that 9 street trees are required; however, 8 would be sufficient since these are large trees and are shown as overlapping on the landscaping plan.

The City Forester has the following comments: Tree planting detail - Root collar sets depth of planting - Soil should not cover after planting but in no case shall it exceed one inch Coordinate all planting locations with lighting and utility plans.

Public Outdoor Space

Several public outdoor patios have been provided on the site. The drive-in restaurant has a 840 s.f. patio west of the building. Building A has a 655 s.f. patio se of the building. Building C has a 476 s.f. patio sw of the building. Building D has three patios; a 660 s.f. building south of the building, a 1307 s.f. patio on the east side of the building, and a 658 s.f. patio on the ne side of the building. Seating and shade are provided for each of these patio areas.

Grading, Drainage, Utility Plans

A narrative of the existing site topography is needed. The site appears to drain from the northeast to the southwest. The utility plan shows new water lines, sewer lines, and fire hydrants along Holly Avenue.

Architecture

The drive-in restaurant is a one-story building with medium gray brown and light gray tan stucco, accented by evergreen steel columns, picture boards of food, yellow/red colored disks, stainless steel trim, a yellow drive-thru canopy, and an arched yellow drive-thru tower cap. Buildings B, C, and D are medium gray brown and light gray tan stucco with aluminum

storefront doors, aluminum clear window frames, with bright metal silver awnings and bright metal shade screens and supports. The drive-in restaurant does not have customer entrances on the building, does not incorporate recessions or projections along at least 20% of the length of the façade, and does not have recessions a minimum of three feet deep and ten feet wide. Therefore, the building does not comply with several regulations in the LCSDP.

Signage

The LCSDP restricts logo design signs to two feet in height or width. The Sonic signs on the north and south sides of the building do not comply with this regulation. The sign is 3' tall and 6' wide, and shall not exceed 2' in height or width. The individual tenant signs for Buildings B, C, and C also do not meet this requirement, based on the height and width of the signs shown on the building elevations sheets.

The P.O.P. picture board would be considered signage, since it has advertisements of food. Although C-1 zoning has no limit on the number of wall signs, these signs would need to be included in the total amount of signage per façade. Since there are no free-standing signs, the total allowed per façade is 20 percent. If there were any free-standing signs, each façade would only be allowed 10 percent of the area of the façade. These P.O.P picture boards also are 2' tall and 5' wide, which would also exceed the logo design regulation in the LCSDP.

No free-standing signs are shown on the site plan; however, it is important to note that if the applicant did want a free-standing sign, it would require a variance. The C-1 zone does not allow free-standing signs on premises under 5 acres in the Developing Urban area. The site is 3.2 acres in size.

CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION

City Departments and other interested agencies reviewed this application from 10/5/2009 to 10/16/2009. Agency comments begin on page 30. When the request was originally submitted in May 2009 for a site plan, an AQIA was not required. However, an Air Quality Impact Analysis (AQIA) is now required as a result of the request for a sector development plan amendment. The applicant has been notified that a AQIA was required, but one has not been received by the Environmental Health Department as of the writing of this staff report.

NEIGHBORHOOD/PUBLIC CONCERNS

The recognized Neighborhood and/or Homeowner Associations in this area include the following: La Cueva Village N.A., Nor Este N.A., North Domingo Baca N.A., and District 4 Coalition of N.A.'s. A facilitated meeting was held on May 27, 2009 at Fire Station 20, at Wyoming and Corona. Neighbors were primarily concerned with traffic and congestion issues. The La Cueva Village Neighborhood Association has written an email that they are opposed to the request; and Heritage Hills NA and Nor Este NA have written emails that while they are not opposed to the request, they have concerns regarding traffic.

CONCLUSIONS

This is a request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use, and a site development plan for building

permit for Lots 17-20, block 9, T2, unit 3, on a 3.2 acre parcel of land located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE. The applicant intends to build a proposed shopping center and a drive-in restaurant with a drive-up lane and service window.

The applicant has not adequately justified the request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use, or the site development plan for building permit, based on applicable policies in the Comprehensive Plan and the La Cueva Sector Development Plan. Staff is recommending denial of the request.

FINDINGS – 09EPC 40034, 11/19/2009, Amend Sector Development Plan Map

1. This is a request to amend the La Cueva Sector Development Plan Map from SU-2 Mixed Use to SU-2/SU-1 for Drive-in Restaurant and Mixed Use for Lots 17-20, block 9, T2, unit 3, on a 3.2 acre parcel of land located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE.
2. The subject site is within the area designated Developing Urban by the Comprehensive Plan, and is within the boundaries of the La Cueva Sector Development Plan.
3. This request to amend the La Cueva Sector Development Plan Map (09EPC 40034) is accompanied by a site development plan for building permit (09EPC 40028).
4. The Albuquerque/Bernalillo County Comprehensive Plan, the La Cueva Sector Development Plan, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The request does not further the following Comprehensive Plan policies for Developing and Established Urban Areas:
 - a. Policy II.B.5d – The request is not in accord with the surrounding neighborhood values, natural environmental conditions, carrying capacities, and scenic resources. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA's relate to traffic and safety. The request does not respect existing neighborhood values, as a result of not complying with many design regulations of the La Cueva Sector Development Plan (which are mandatory) or the Comprehensive Plan. In addition, "The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Use on the zoning map" (La Cueva Sector Development Plan, page 29). C-1 zoning does not allow a drive-in restaurant. The LCSDP was written and adopted to explicitly not allow drive-in restaurants.
 - b. Policy II.B.5i – A drive-in restaurant with a drive-up lane and service window is exclusively designed to attract customers in vehicles. Vehicles waiting in the drive-up lane may add to the pollution of the area, and traffic would increase at the following intersections (Wyoming/Paseo del Norte, Wyoming/Holly, and Wyoming/Carmel). Traffic is a concern for La Cueva Village NA, Heritage Hills NA, and Nor Este NA. The request does not meet many of the design regulations in the La Cueva Sector Development Plan, does not further many policies in the Comprehensive Plan, and a

drive-in restaurant is currently prohibited in C-1 zones. This use, not allowed by the LCSDP, would not complement residential areas.

- c. Policy II.B.5j – Drive-in restaurants with a drive-up lane and service window are designed to attract many vehicles. There are 22 parking spaces that have their own individual ordering boards, as well as a drive-up lane and service window. There are also sidewalks and bicycle racks at the subject site. As a result, there is the potential for vehicle/bicycle/pedestrian conflicts. Community Activity Centers should be walkable and very accommodating to the pedestrian; however, a request for a drive-in restaurant with a drive-up lane and service window would not be very accommodating to the pedestrian.
 - d. Policy II.B.5k – The request for a drive-in restaurant with a drive-up lane and service window would provide additional traffic. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA's relate to traffic and safety.
6. The request does not further Activity Center Policy II.B.7a of the Comprehensive Plan. The subject site is located within the La Cueva Community Activity Center. The Comprehensive Plan describes a Community Activity Center as being "very accommodating to the pedestrian," "very walkable," and that a "site circulation plan is important to avoid conflict between pedestrian and auto." The request for a drive-in restaurant with a drive-up lane and service window does not promote pedestrian access both to and within the Activity Center. The applicant states that restaurants are a typical use in a Community Activity Center and that there is no indication that such restaurants should be limited by type and that the inclusion of a drive-in restaurant contributes to the overall variety of uses offered. However, the Zoning Code specifically states that "There shall be no drive-in restaurant" in C-1 zoning. Therefore, the requested use is not allowed at the subject site.
7. The request does not further Air Quality Policy II.C.1i of the Comprehensive Plan. The applicant states that the current zone category allows drive-thru uses such as banks and fast food facilities and that the proposed use will not be more likely to increase pollution. The only permissive drive-in facility allowed in the C-1 zone is for banks (permitted on the condition the vehicle movement plan is approved by the Traffic Engineer). A drive-up service window is a conditional use in the C-1 zone (provided that the vehicle movement plan is approved by the Traffic Engineer, and provided that the service window and any associated order board are located at least 75 feet from any residential zone). Drive-in restaurants; however, are specifically prohibited in C-1 zoning, per Section 14-16-2-16 (A)(8)(i)(1). The request is also for a drive-up lane with a service window, which would consist of vehicles continually running while waiting

for their food. The request would not improve the air quality of those neighborhoods adjacent to the subject site.

8. The request does not further the guiding principle of the LCSDP that land uses that are compatible with existing development. The applicant states that there is wide variety of land uses surrounding the development and that a drive-in will fit seamlessly into this mix. There are a wide variety of land uses surrounding the development; however, the LCSDP states “The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Uses on the zoning map.” This means that “There shall be no drive-in restaurant” in C-1 zoning. A land use is not compatible with existing development if it is strictly prohibited. The design regulations for all SU-2 zoned properties also have to be followed. There are many mandatory design regulations in the LCSDP that are not followed in this request.
9. The request does not comply with the following Design Regulations for All SU-2 Zoned Properties in the LCSDP:
 - a. 3R-4: A 15-foot sidewalk shall be provided along the entire entry façade of all buildings. Shading shall be provided along the façade, using canopies, portals, or shade trees spaced at 25 feet. - *There is no 15-foot sidewalk provided along the entry façade of the proposed drive-in restaurant. There is partial shade provided by a cloth canopy cover. The proposed drive-in does not have any customer entrances, only employee entrances. A drive-in restaurant was probably never intended to be located in the LCSDP. As a result of not having a 15-foot sidewalk on any of the facades, the request does not comply with this design regulation.*
 - b. 4R-3: When the rear of a building faces any street, the building must have one of the following: design display windows and landscaping or design/details similar to a front façade and landscaping. - *Since there are no customer entrances for the drive-in restaurant, it is unclear where the front or rear of the building is for the drive-in restaurant. There is landscaping that faces the street of the drive-in restaurant, and windows on the east side of the building; however, there are no design display windows on the south or north side of the building. The south and north sides of the building have P.O.P. picture boards, which are not windows, but signs for various food products which are sold by the restaurant. If the rear of the drive-in restaurant is on the south side (which faces Holly Avenue) then it does not comply with this regulation.*
 - c. 4G-1: Buildings should be located on sites in close proximity to plazas and streets. Large areas of parking should be located to the side of plazas and main building entrances. - *The parking for Buildings B, C, and D are in front of and to the side of the main building entrances. The drive-in restaurant does not have a main building entrance; therefore, it does not comply with this guideline.*

- d. 5R-4: Facades greater than 100 feet in length must incorporate recessions or projections along at least 20% of the length of the façade. Recessions must be a minimum depth of three feet and a minimum width of 10 feet. - *The length of the drive-in restaurant building is 117' on the north side and 122' on the south side. The drive-in restaurant does not meet this requirement.*
 - e. 5R-7: Each commercial or office building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing wall and/or integral planters. - *The drive-in restaurant does not meet this design regulation because it does not have a clearly defined, highly visible customer entrance.*
 - f. 5R-8: No generic prototypical architecture is allowed. Design shall be contextual to its surroundings. - *The drive-in restaurant is generic prototypical architecture and does not meet this requirement.*
 - g. 12R-2: Parking spaces shall be distributed on the site to minimize visual impact. Parking at the rear of the site is encouraged. When parking is located at the front or sides of the site, parking areas shall be placed on at least two sides of a building. Parking areas must be broken up into modules separated by landscaping and other features. - *The parking for Buildings B, C, and D are in front of and to the side of the buildings. The parking for the drive-in restaurant is on one side of the building. The request for the drive-in restaurant does not meet this design regulation.*
 - h. 13R-9: Logo design signs shall not exceed two feet in height or width. - *The Sonic sign on the north and south sides of the building does not comply with this regulation. The sign is 3' tall and 6' wide, and shall not exceed 2' in height or width. The P.O.P. picture boards on the north and south sides of the drive-in restaurant also do not meet this requirement. The individual tenant signs for Buildings B, C, and D also do not meet this requirement, based on the height and width of the signs shown on the building elevations sheets.*
10. The applicant has not adequately justified the zone change request pursuant to Resolution 270-1980:
- a. The applicant states that the request is for a minor modification to the existing zone category. However, the provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Use on the zoning map. The City Zoning Code explicitly states that "There shall be no drive-in restaurant" in C-1 zoning. The proposed drive-in restaurant with a drive-up lane and service window would increase congestion at the subject site and would also increase the number of pedestrian/vehicle conflicts. The safety of pedestrians and bicyclists is a concern with a use that would mostly attract vehicles. In addition, the request does not comply with many of the mandatory design guidelines in the LCSDP.
 - b. The applicant has not shown sufficient justification for the zone change request. A drive-in restaurant is not allowed in C-1 zoning, and the request does not comply with

- numerous mandatory design guidelines in the LCSDP. Adding a drive-in restaurant, which is specifically prohibited, could de-stabilize the current zoning. The current zoning may have been adopted in 2000 when there were not as many homes as there are now, but the design regulations of the LCSDP still apply.
- c. The proposed zone change is in significant conflict with multiple policies in the Comprehensive Plan, and with the mandatory design regulations of the LCSDP.
 - d. (3) The applicant has not shown that a different use category is more advantageous to the community as a result of being in conflict with multiple policies of the Comprehensive Plan and the design regulations of the LCSDP.
 - e. A zone change could be harmful to adjacent property as a drive-in restaurant is not allowed in C-1 zoning. The mandatory design regulations of the LCSDP have been set up to protect the residents in this area, and many regulations are not being followed.
 - f. The request requires no capital expenditures on the part of the City in order to be developed.
 - g. The zone change request is specifically to allow for a drive-in restaurant use, if the cost of land or other economic considerations are not the determining factor for the requested zone change, then they are a major factor for this request.
 - h. Street location has been noted in this request, but the application does not ask that it be considered as sufficient justification for this request.
 - i. The request would create a spot zone (SU-2/SU-1 for Drive-in Restaurant and Mixed Use); because it is different from any of the surrounding zoning. The request does not clearly facilitate realization of the Comprehensive Plan and the LCSDP and should not be approved.
 - j. The request does not constitute a strip zone.
11. A facilitated meeting was held on May 27, 2009 at Fire Station 20, at Wyoming and Corona. Neighbors were primarily concerned with traffic and congestion issues.
12. The La Cueva Village Neighborhood Association has written an email that they are opposed to the request.

RECOMMENDATION - 09EPC 40034, 11/19/2009, Amend Sector Development Plan Map

DENIAL of 09EPC 40034, an amendment to the sector development plan map, for Lot(s) 17-20, block(s) 9, T2, unit 3, based on the preceding Findings.

FINDINGS – 09EPC 40028, 11/19/2009, Site Development Plan for Building Permit

1. This is a request for a site development plan for building permit for Lots 17-20, block 9, T2, unit 3, on a 3.2 acre parcel of land located on Holly Avenue NE, between Wyoming Boulevard NE and Louisiana Boulevard NE.
2. The subject site is within the area designated Developing Urban by the Comprehensive Plan, and is within the boundaries of the La Cueva Sector Development Plan.
3. This request for a site development plan for building permit (09EPC 40028) is accompanied by a request to amend the La Cueva Sector Development Plan Map (09EPC 40034).
4. The Albuquerque/Bernalillo County Comprehensive Plan, the La Cueva Sector Development Plan, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The request does not further the following Comprehensive Plan policies for Developing and Established Urban Areas:
 - a. Policy II.B.5d – The request is not in accord with the surrounding neighborhood values, natural environmental conditions, carrying capacities, and scenic resources. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA's relate to traffic and safety. The request does not respect existing neighborhood values, as a result of not complying with many design regulations of the La Cueva Sector Development Plan (which are mandatory) or the Comprehensive Plan. In addition, "The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Use on the zoning map" (La Cueva Sector Development Plan, page 29). C-1 zoning does not allow a drive-in restaurant.
 - b. Policy II.B.5i – A drive-in restaurant with a drive-up lane and service window is exclusively designed to attract customers in vehicles. Vehicles waiting in the drive-up lane may add to the pollution of the area, and traffic would increase at the following intersections (Wyoming/Paseo del Norte, Wyoming/Holly, and Wyoming/Carmel). Traffic is a concern for La Cueva Village NA, Heritage Hills NA, and Nor Este NA. The request does not meet many of the design regulations in the La Cueva Sector Development Plan, does not further many policies in the Comprehensive Plan, and a

drive-in restaurant is currently prohibited in C-1 zones. This use, not allowed by the LCSDP, would not complement residential areas.

- c. Policy II.B.5j – Drive-in restaurants with a drive-up lane and service window are designed to attract many vehicles. There are 22 parking spaces that have their own individual ordering boards, as well as a drive-up lane and service window. There are also sidewalks and bicycle racks at the subject site. As a result, there is the potential for vehicle/bicycle/pedestrian conflicts. Community Activity Centers should be walkable and very accommodating to the pedestrian; however, a request for a drive-in restaurant with a drive-up lane and service window would not be very accommodating to the pedestrian.
 - d. Policy II.B.5k – The request for a drive-in restaurant with a drive-up lane and service window would provide additional traffic. The request will add to the carrying capacity of the already busy Wyoming/Carmel, Wyoming/Holly, and Wyoming/Paseo del Norte intersections. The La Cueva Neighborhood Association opposes the project. The Heritage Hills Neighborhood Association and the Nor Este Neighborhood Association have concerns about the project. The concerns of all three NA's relate to traffic and safety.
6. The request does not further Activity Center Policy II.B.7a of the Comprehensive Plan. The subject site is located within the La Cueva Community Activity Center. The Comprehensive Plan describes a Community Activity Center as being "very accommodating to the pedestrian," "very walkable," and that a "site circulation plan is important to avoid conflict between pedestrian and auto." The request for a drive-in restaurant with a drive-up lane and service window does not promote pedestrian access both to and within the Activity Center. The applicant states that restaurants are a typical use in a Community Activity Center and that there is no indication that such restaurants should be limited by type and that the inclusion of a drive-in restaurant contributes to the overall variety of uses offered. However, the Zoning Code specifically states that "There shall be no drive-in restaurant" in C-1 zoning. Therefore, the requested use is not allowed at the subject site.
7. The request does not further Air Quality Policy II.C.1i of the Comprehensive Plan. The applicant states that the current zone category allows drive-thru uses such as banks and fast food facilities and that the proposed use will not be more likely to increase pollution. The only permissive drive-in facility allowed in the C-1 zone is for banks (permitted on the condition the vehicle movement plan is approved by the Traffic Engineer). A drive-up service window is a conditional use in the C-1 zone (provided that the vehicle movement plan is approved by the Traffic Engineer, and provided that the service window and any associated order board are located at least 75 feet from any residential zone). Drive-in restaurants; however, are specifically prohibited in C-1 zoning, per Section 14-16-2-16 (A)(8)(i)(1). The request is also for a drive-up lane with a service window, which would consist of vehicles continually running while waiting for their food. The request would not improve the air quality of those neighborhoods adjacent to the subject site.

8. The request does not further the guiding principle of the LCSDP that land uses that are compatible with existing development. The applicant states that there is wide variety of land uses surrounding the development and that a drive-in will fit seamlessly into this mix. There are a wide variety of land uses surrounding the development; however, the LCSDP states "The provisions of the C-1 zone in the City Zoning Code apply in areas mapped SU-2/Mixed Uses on the zoning map." This means that "There shall be no drive-in restaurant" in C-1 zoning. A land use is not compatible with existing development if it is strictly prohibited. The design regulations for all SU-2 zoned properties also have to be followed. There are many mandatory design regulations in the LCSDP that are not followed in this request.
9. The request does not comply with the following Design Regulations for All SU-2 Zoned Properties in the LCSDP:
 - a. 3R-4: A 15-foot sidewalk shall be provided along the entire entry façade of all buildings. Shading shall be provided along the façade, using canopies, portals, or shade trees spaced at 25 feet. - *There is no 15-foot sidewalk provided along the entry façade of the proposed drive-in restaurant. There is partial shade provided by a cloth canopy cover. The proposed drive-in does not have any customer entrances, only employee entrances. A drive-in restaurant was probably never intended to be located in the LCSDP. As a result of not having a 15-foot sidewalk on any of the facades, the request does not comply with this design regulation.*
 - b. 4R-3: When the rear of a building faces any street, the building must have one of the following: design display windows and landscaping or design/details similar to a front façade and landscaping. - *Since there are no customer entrances for the drive-in restaurant, it is unclear where the front or rear of the building is for the drive-in restaurant. There is landscaping that faces the street of the drive-in restaurant, and windows on the east side of the building; however, there are no design display windows on the south or north side of the building. The south and north sides of the building have P.O.P. picture boards, which are not windows, but signs for various food products which are sold by the restaurant. If the rear of the drive-in restaurant is on the south side (which faces Holly Avenue) then it does not comply with this regulation.*
 - c. 4G-1: Buildings should be located on sites in close proximity to plazas and streets. Large areas of parking should be located to the side of plazas and main building entrances. - *The parking for Buildings B, C, and D are in front of and to the side of the main building entrances. The drive-in restaurant does not have a main building entrance; therefore, it does not comply with this guideline.*
 - d. 5R-4: Facades greater than 100 feet in length must incorporate recessions or projections along at least 20% of the length of the façade. Recessions must be a minimum depth of three feet and a minimum width of 10 feet. - *The length of the drive-in restaurant building is 117' on the north side and 122' on the south side. The drive-in restaurant does not meet this requirement.*

- e. 5R-7: Each commercial or office building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing wall and/or integral planters. - *The drive-in restaurant does not meet this design regulation because it does not have a clearly defined, highly visible customer entrance.*
 - f. 5R-8: No generic prototypical architecture is allowed. Design shall be contextual to its surroundings. - *The drive-in restaurant is generic prototypical architecture and does not meet this requirement.*
 - g. 12R-2: Parking spaces shall be distributed on the site to minimize visual impact. Parking at the rear of the site is encouraged. When parking is located at the front or sides of the site, parking areas shall be placed on at least two sides of a building. Parking areas must be broken up into modules separated by landscaping and other features. - *The parking for Buildings B, C, and D are in front of and to the side of the buildings. The parking for the drive-in restaurant is on one side of the building. The request for the drive-in restaurant does not meet this design regulation.*
 - h. 13R-9: Logo design signs shall not exceed two feet in height or width. - *The Sonic sign on the north and south sides of the building does not comply with this regulation. The sign is 3' tall and 6' wide, and shall not exceed 2' in height or width. The P.O.P. picture boards on the north and south sides of the drive-in restaurant also do not meet this requirement. The individual tenant signs for Buildings B, C, and C also do not meet this requirement, based on the height and width of the signs shown on the building elevations sheets.*
10. A facilitated meeting was held on May 27, 2009 at Fire Station 20, at Wyoming and Corona. Neighbors were primarily concerned with traffic and congestion issues.
11. The La Cueva Village Neighborhood Association has written an email that they are opposed to the request.

RECOMMENDATION - 09EPC 40028, 11/19/2009, Site Development Plan for Building Permit

DENIAL of 09EPC 40028, a site development plan for building permit, for Lot(s) 17-20, block(s) 9, T2, unit 3, based on the preceding Findings.

***Randall Falkner
Planner***

cc: Afra Construction, 2501 Yale Blvd. SE, 102, Albuquerque, NM 87106
DAC Enterprises, P.O. Box 16658, Albuquerque, NM 87191
Celina Stoyanof, La Cueva Village N.A., 8111 Oso Feliz NE, Albuquerque, NM 87122
Dave Nufer, La Cueva Village N.A., 7912 Oso Rico Rd. NE, Albuquerque, NM 87122
Jeff Peterson, Nor Este N.A., 7800 Eagle Rock Ave. NE, Albuquerque, NM 87122
Joe Yardumian, Nor Este N. A. 7801 R.C. Gorman Ave., Albuquerque, NM 87122
Judie Pellegrino, North Domingo Baca N.A., 8215 Murrelet NE, Albuquerque, NM 87113
Erik Bose, North Domingo Baca N.A., 7200 Peregrine NE, Albuquerque, NM 87113
Amy Whitling, District 4 Coalition of N.A.'s, P.O. Box 91343, Albuquerque, NM 87199
Bambi Folk, District 4 Coalition of N.A.'s, 66717 Esther NE, Albuquerque, NM 87109

Attachments

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Code Services

No pedestrian connection to Holly.

Office of Neighborhood Coordination

La Cueva Village NA (R)

Nor Este NA (R)

North Domingo Baca NA (R)

District 4 Coalition of NA's

6/09 – Recommended for facilitation – siw

6/09 – Assigned to Seth Cohen – swatson

Long Range Planning

CITY ENGINEER

Transportation Development Services

- All the requirements of previous actions taken by the EPC and/or the DRB must be completed and /or provided for.
- The Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed site development plan, as may be required by the Development Review Board (DRB).
- A Traffic Impact Study (TIS) has been submitted and reviewed by Transportation Staff.
- Per Transportation Development Staff, completion of the required system improvements that are attributable to the development, as identified in the TIS, is required. However, these system improvements may have already been addressed with Transportation Development as part of the original development proposal or constructed as part of the Wyoming Boulevard Widening Project. The applicant will need to verify and provide evidence that they have been addressed and/or constructed.
- The Traffic Impact Study is available for review by any interested party, in the office of the Traffic Engineer.
- Does the private access easement for public use from Holly to Carmel and to/from Wyoming, as shown on the site development plan for subdivision previously submitted, exist today? If so, provide a copy of the appropriate cross access agreements between applicant and adjacent property owners. If not, the applicant will need to provide appropriate cross access agreements with adjacent property owners.
- The drive aisle that will connect Holly with Carmel should be the same width, at a minimum, as the bank site to the north.
- Depending on queuing requirements, a southbound right turn deceleration lane may be required on Wyoming at Holly.

- Delete east site drive on Holly unless applicant demonstrates there will be no queuing issues that affect Wyoming Boulevard or the Holly/Wyoming intersection.
- Delete dumpster locations within the 24' drive aisle that will connect Holly with Carmel. Also, concurrence from solid waste is required for dumpster location on Holly.
- Site drives should be 30' wide with 25' curb return radii (label dimensions).
- Provide dimension information on the site plan that contains the Sonic Restaurant (i.e. label parking spaces, drive aisles, curb returns, parking end caps, drive-up window, etc.). Further review may be required.
- Provide adequate directional signing and pavement markings for drive-up window.
- Provide truck circulation information.
- Site plan shall comply and be designed per DPM Standards.

Hydrology

- The Hydrology Section has no adverse comments on the site plan. A conceptual grading and drainage plan is required prior to DRB. A concurrent platting action is required at DRB.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

Findings

- Wyoming Boulevard is a principal arterial with a *minimum* right-of-way width of 156 feet as designated on Long Range Roadway System map.

Conditions

- Dedication of a *minimum* 78 feet of right-of-way from the centerline of Wyoming Boulevard a principal arterial as designated on the Long Range Roadway System map.

Traffic Engineering Operations (Department of Municipal Development):

- No comments received.

Street Maintenance (Department of Municipal Development):

- No comments received.

New Mexico Department of Transportation (NMDOT):

- No comments received.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT
and NMDOT:**

Conditions of approval for the proposed Sector Development Plan Map Amendment and Site Development Plan for Building Permit shall include:

- a. All the requirements of previous actions taken by the EPC and/or the DRB must be completed and /or provided for.

-
- b. The Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed site development plan, as may be required by the Development Review Board (DRB).
 - c. Per Transportation Development Staff, completion of the required system improvements that are attributable to the development, as identified in the TIS, is required. However, these system improvements may have already been addressed with Transportation Development as part of the original development proposal or constructed as part of the Wyoming Boulevard Widening Project. The applicant will need to verify and provide evidence that they have been addressed and/or constructed.
 - d. Does the private access easement for public use from Holly to Carmel and to/from Wyoming, as shown on the site development plan for subdivision previously submitted, exist today? If so, provide a copy of the appropriate cross access agreements between applicant and adjacent property owners. If not, the applicant will need to provide appropriate cross access agreements with adjacent property owners.
 - e. The drive aisle that will connect Holly with Carmel should be the same width, at a minimum, as the bank site to the north.
 - f. Depending on queuing requirements, a southbound right turn deceleration lane may be required on Wyoming at Holly.
 - g. Delete east site drive on Holly unless applicant demonstrates there will be no queuing issues that affect the operation of Wyoming Boulevard or the Holly/Wyoming intersection.
 - h. Delete dumpster locations within the 24' drive aisle that will connect Holly with Carmel. Also, concurrence from solid waste is required for dumpster location on Holly.
 - i. Site drives should be 30' wide with 25' curb return radii (label dimensions).
 - j. Provide dimension information on the site plan including the Sonic Restaurant (i.e. label parking spaces, drive aisles, curb returns, parking end caps, drive-up window, etc.). Further review may be required.
 - k. Provide adequate directional signing and pavement markings for the Sonic drive-up window.
 - l. Provide truck circulation information.
 - m. Site plan shall comply and be designed per DPM Standards.
 - n. If there is an opportunity (i.e. platting action, etc.), dedication of a *minimum* 78 feet of right-of-way from the centerline of Wyoming Boulevard a principal arterial as designated on the Long Range Roadway System map is required.

WATER UTILITY AUTHORITY

Utility Services

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Reviewed, no objection. Request does not affect our facilities.

Open Space Division

Open Space has no adverse comments

City Forester

Tree planting detail - Root collar sets depth of planting - Soil should not cover after planting but in no case shall it exceed one inch

Coordinate all planting locations with lighting and utility plans

I advise caution with using the maple in such a small and hot area

POLICE DEPARTMENT/Planning

Nearest Police Station: John Carrillo NE Substation, 8201 Osuna Rd. NE, Area between I-25 & Eubank.

Site plan proposes placing parking lot lights in the same parking “islands” with trees – suggest lights and trees do not conflict with each other.

All parking areas, walkways, common areas and building access points should be clear of obstacles and/or barriers to include trees, bushes, pillars, etc.

No Crime Prevention of CPTED comments concerning the proposed amendment to zone map request at this time. **(COMMENTS FROM FIRST DISTRIBUTION)**

The following items are my comments to the proposed amended case for the Sonic property only, which are in addition to my previous remarks.

- The vehicular entrance from Holly requires additional illumination. Recommend adding direction light, which would focus on the entrance and surrounding walkways.
- The proposed "large" trees on either side of the vehicular entrance from Holly should be removed to allow better visibility from the property. Opening the area would benefit the vehicular/pedestrian mix point and allow better surveillance of the area in the event of criminal activity.
- The light/landscaping island located west of the Sonic building should be amended. Recommend reducing the landscaping to ground cover, which would increase the effectiveness of the pole light and provide better visibility from the building and drive-up area.
- The entire perimeter of the property requires additional lighting. Suggest installing illumination to the Holly side, parking for car-hop, northeast corner and northwest area. Particular attention should

be focused on the northwest portion of the Sonic property, which is the mix point for the other proposed developments.

- Video surveillance cameras should be positioned to cover all vehicular access points (3), building entrances (interior and exterior), maintenance access points, parking and walkway areas.

Steve Sink, Manager
APD Crime Prevention Unit
924-3600

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

09EPC-40028: APPROVED

**NEEDS TO SHOW SANITARY SEWER DRAIN ALSO NEED TO SHOW RECYCLE
AREA CALL FOR DETAILS 761-8158**

09EPC – 40034: APPROVED

**1) ENCLOSURE ON NORTH SIDE NEEDS REANGLE ALSO NEEDS TO SHOW
RECYCLE AREA CALL FOR DETAILS 761-8158**

**2) ENCLOSERS ON EAST SIDE, NEEDS REANGLE ALSO NEEDS TO SHOW RECYCLE
AREA CALL FOR DETIALS 761-8158**

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

Adjacent and nearby routes	Routes #31, Wyoming route and #98, Wyoming Peak hour route, pass the site on Wyoming.
Adjacent bus stops	Near the site on Wyoming
Site plan requirements	Transit requests providing a type C bus shelter at the location mentioned above as per COA Design standard COA 2355.
Large site TDM suggestions	N/A
Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

This will have no adverse impacts to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

- As a condition, it is the applicant's obligation to determine if existing utility easements or rights-of-way are located on or adjacent to the property and to abide by any conditions or terms of those easements.
- As a condition, it is necessary for the developer to contact PNM's New Service Delivery Department to coordinate electric service regarding this project. Any existing or proposed public utility easements are to be indicated on the site plan utility sheet prior to DRB review. PNM's standard for public utility easements for distribution is 10 feet in width to ensure adequate, safe clearances.
- As a condition, it is necessary that the applicant coordinate with PNM regarding proposed tree species, the height at maturity and tree placement, sign location and height, and lighting height in order to ensure sufficient safety clearances to avoid interference with the existing electric distribution lines along Wyoming on the east and Holly on the south side of the project site. PNM's standard is for trees to be planted outside the PNM easement.
- Screening should be designed to allow for access to utility facilities. As a condition, it is necessary to provide adequate clearance of ten feet surrounding all ground-mounted utilities for safe operation, maintenance and repair purposes.
- As a condition, it is necessary that the applicant coordinate with PNM regarding the current location of the refuse enclosure in the southwest corner of the project site. As currently displayed, the refuse enclosure will be in direct conflict, as far as clearances, with an existing electric distribution line on Holly.